

EXHIBITS TO PLAINTIFF'S REPLY TO WORTHPOINT'S OPPOSITION TO PLAINTIFF'S MOTION TO RECONSIDER

EXHIBIT # 1 Nov. 23, 2022 Conference Call transcript page 64.

#1 Nov. 23, 2022 Conference Call transcript page 65.

EXHIBIT # 2 Nov. 23, 2022 email to Dr. Joseph Scelsa availability for expert report.

EXHIBIT # 3 Defendants' Nov. 23, 2023 email unknown coding - Source Information.

EXHIBIT # 4 Original Electronic Message Print out Adam Bialek Nov. 23, 2022 email.

EXHIBIT # 5 EBay phone Transcript page 19 1972 oil painting sale was an UNDEFINED

EXHIBIT # 6 Nov. 23, 2022 Conference Call to include pages 4 thru 21

EXHIBIT #7 WP000130 stating March 5, 2013 was the date the 1972 post

EXHIBIT #8 Rosen vs Terapeak, infringing items WorthPoint's on March, 5,2013"

EXHIBIT #9 A WP000120 Temporal Google Removal on March 3, 2016

EXHIBIT #10 B WP000134 Google Remoal on Jan. 4, 2017

EXHIBIT #11 A-April 8, 2022 request the DMCA agent's name

B Email to Copyright Office May 2022

C WorthPoint Copyright Registration DMCA Agent

D Returned Mail from Gregory Watkins

EXHIBIT #12 A Georgia Lawsuit Process Server False Affidavit —Never asked in Military

B Summons and Complaint with wrong dates and claims

C Motion for Default Judgement filed Oct. 31, 2022

D Proposed Order with Future Dates August 30, 2023 and Sept 29, 2023

E Affidavit by Annamarie Trombetta

F Affidavit by Phone Call Participant Wanda Buncamper

EXHIBIT #13 A Withdrawn Expert Witness Peter Trippi Sept. 22, 2022 Florida Address

#13 B Subpoena Sent to New York Home Peter Trippi Oct.7, 2022

EXHIBIT #14 Plaintiff Print and Script 1972 Signature with Girl Scouts Sash and Badge

Plaintiff's Evidence 000606

RESPONSE: WorthPoint objects to this request on the grounds that it is duplicative of plaintiff's prior similar request, and it mischaracterizes the manner in which eBay data is made available on WorthPoint's service. Subject to and without waiving the foregoing objections, WorthPoint states that there were no such employees that manually posted this specific listing. Furthermore, WorthPoint is not in possession of any information as to when this listing was posted on WorthPoint's website. Based on the Google Analytics records WorthPoint previously produced, this listing had no traffic (i.e., no person had viewed it) prior to August 2015.

Plaintiff's Interrogatory No. 9

State in writing the month and year WHEN the WorthPoint Corporation employee REMOVED the "1972 Original Oil Painting Man With Red Umbrella WorthPoint Ad" from the WorthPoint website. If you claim that part of any response is privileged or otherwise immune from discovery; (a) identify the grounds for your claim of privilege or immunity (b) identify the privileged documents or Photographs (c) provide all information which responds to this request and does not fall within your claim of privilege or other immunity.

RESPONSE: WorthPoint objects to this request on the grounds that it is duplicative of plaintiff's multiple prior requests, and mischaracterizes the listing. Subject to and without waiving the foregoing objections, WorthPoint removed the subject listing on February 4, 2016.

Plaintiff's Interrogatory No. 10

State the name of the WorthPoint Corporation employee that REMOVED the "1972 Man With Red Umbrella Oil Painting sold on eBay by Estate Auctions Inc with Plaintiff's biography from the www.worthpoint.com website. If you claim that part of any response is privileged or otherwise immune from discovery; (a) identify the grounds for your claim of privilege or immunity (b) identify the privileged documents or Photographs (c) provide all information which responds to this request and does not fall within your claim of privilege or other immunity.

RESPONSE: WorthPoint objects to this request on the grounds that it mischaracterizes the listing. Subject to and without waiving the foregoing objections, Jason Packer, who is an independent contractor to WorthPoint, removed the subject listing from WorthPoint's website.

EXHIBIT # 7
and # 9



Jason Packer <jason.packer@worthpoint.com>

take down a WP page

2 messages

Gregory Watkins <greg.watkins@worthpoint.com>
To: Jason Packer <jason.packer@worthpoint.com>
Cc: Antoine Lyseight <antoine.lyseight@worthpoint.com>

Wed, Feb 3, 2016 at 9:53 AM

Hi Jason,

A woman has called several times saying that a painting attributed to her that sold on eBay was not painted by her and she would like the page taken down.

Here is the link:

<http://www.worthpoint.com/worthopedia/1972-original-oil-painting-man-red-48924172>

She would like to know when it was posted (the date) and if there are any other photos that came with the file ... she's very unreasonable...

Please let me know what you can find out.

Thanks,

-g

--

Gregory Watkins

Editor

WorthPoint Corporation

t. 877-481-5750 c. 770-344-9182

WorthPoint.com :: GoAntiques.com :: MarksandLibrary.com



EXHIBIT
7

Jason Packer <jason.packer@worthpoint.com>
To: Gregory Watkins <greg.watkins@worthpoint.com>
Cc: Antoine Lyseight <antoine.lyseight@worthpoint.com>

Thu, Feb 4, 2016 at 9:12 AM

Hi Greg,
That's removed.

It was posted 2013-03-05, and we do not have any other photos with it.

Gregory Watkins wrote:

Hi Jason,

A woman has called several times saying that a painting attributed to her that sold on eBay was not painted by her and she would like the page taken down.

Here is the link:

<http://www.worthpoint.com/worthopedia/1972-original-oil-painting-man-red-48924172>

Plaintiff's Evidence 000404

1 JAMES M. MULCAHY (CA SBN 213547)

2 KEVIN A. ADAMS (CA SBN 239171)

3 MULCAHY.LLP

4 jmulcahy@mulcahyllp.com

5 kadams@mulcahyllp.com

6 Four Park Plaza, Suite 1230

7 Irvine, CA 92614

8 Telephone: (949) 252-9377

9 Fax: (949) 252-0090

10 Specially appearing for Defendant WorthPoint
11 Corporation.

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 Barry Rosen,

15 Plaintiff,

16 v.

17 Terapeak, Inc., WorthPoint Corporation,
18 and Does 1 through 10,

19 Defendants.

Case No. 2:15-cv-00112-AB-JPR

**DECLARATION OF WILLIAM H.
SEIPPEL IN SUPPORT OF
DEFENDANT WORTHPOINT'S
MOTION TO DISMISS
COMPLAINT FOR LACK OF
PERSONAL JURISDICTION**

DATE: June 8, 2015

TIME: 10:00 a.m.

Courtroom: 1600

JUDGE: Hon. Michael W. Fitzgerald

DATE Comp. Filed: January 7, 2015

23 I, WILLIAM H. SEIPPEL, state as follows:

24
25
26 1. My name is William H., Seippel, and I am a resident of the State
27 of Georgia. I am over the age of 18 and am competent to testify to the

EXHIBIT #8

- WorthPoint is a “broadcaster” whose broadcasts are sent across the world and California over the internet, and so it could reasonably foresee that its actions would result in access to people in California resulting in damage to people in California (*id.* ¶ 16);
- WorthPoint promotes its services across the internet and discovery will show that WorthPoint directs its advertising efforts to residents of California (*id.* ¶ 21);
- WorthPoint's services relate to collectables, and relevant to this case, entertainment collectibles related to the forum of Los Angeles, California (*id.* ¶ 20);
- WorthPoint has an app available from California-based Apple's App Store (*id.* ¶ 22);
- Infringing items were still available on WorthPoint's website when the FAC was filed on March 5, 2013 (*id.* ¶ 24).

Plaintiff does not clearly apply these factual allegations to the law, but the Court views Plaintiff as presenting four arguments as to why WorthPoint is subject to personal jurisdiction in California. **First**, WorthPoint directed harm at him in California by infringing his copyright. **Second**, WorthPoint has expressly directed itself to California through advertising its products to citizens of the state. **Third**, WorthPoint's interactions with its known customers in California constitute sufficient minimum contacts to establish personal jurisdiction. **Fourth**, WorthPoint has a number of other contacts with California that are sufficiently associated with its allegedly wrongful conduct to justify this Court exercising its jurisdiction over WorthPoint.

The Court applies the framework for analyzing personal jurisdiction under Ninth Circuit law to each of Plaintiff's arguments below and determines that Plaintiff fails to establish a prima facie case against WorthPoint on both the first and second prongs of the test for personal jurisdiction.

A. Copyright Harm Felt by Plaintiff in California

Plaintiff argues that because WorthPoint was aware of his existence and his presence in California, WorthPoint has directly aimed its activities at California and so is subject to personal jurisdiction in the forum.

*6 Plaintiff is correct that Ninth Circuit precedent provides for a finding of personal jurisdiction in the plaintiff's forum

where a defendant willfully infringes the intellectual property rights with knowledge of the plaintiff's place of residence. See *Washington Shoe Co. v. A-Z Sporting Goods Inc.*, 704 F.3d 668, 679 (9th Cir. 2012) (holding that sporting goods store was subject to personal jurisdiction in Washington state for sale of infringing goods after receiving notice from Washington resident despite sales all occurring in Alabama); see also *Columbia Pictures Television*, 106 F.3d at 289 (finding that the purposeful availment requirement of the specific jurisdiction test was satisfied where the defendant had “willfully infringed copyrights owned by Columbia, which, as [the defendant] knew, had its principal place of business in [the forum]”); *Amini Innovation Corp. v. JS Imports, Inc.*, 497 F. Supp. 2d 1093, 1107 (C.D. Cal. 2007) (interactive commercial website with no sales to California was not sufficient to establish personal jurisdiction, but knowledge of plaintiff's presence in California and allegations of willful infringement was sufficient to show purposeful direction of activity to California).

The court in *Washington Shoe* explained that the “something more” required from a merely foreseeable effect is “express aiming” by the defendant, which requires a showing that the defendant “engaged in wrongful conduct targeted at a plaintiff whom the defendant knows to be a resident of the forum state.” 704 F.3d at 679 (quoting *Dole Food*, 303 F.3d at 1111). The court held that the “impact of a willful infringement is necessarily directed” at the place where the copyright is held. *Washington Shoe*, 704 F.3d at 678 (emphasis in original).

However, Plaintiff's allegations are not sufficient to establish such direction. WorthPoint may have been on notice as to Plaintiff's copyright claims prior to his filing this action. However, WorthPoint's actions in failing to remove every instance of Plaintiff's photographs from the billion it has on its servers does not constitute an act purposely directed, or “individually targeting” Plaintiff in his forum of residence sufficient to establish personal jurisdiction. *Bancroft*, 223 F.3d at 1087 (“express aiming encompasses wrongful conduct individually targeting a known forum resident”); see also *Golden Scorpio Corp. v. Steel Horse Saloon I*, No. CV-08-1781-PHX-GMS, 2009 WL 348740, at *8 (D. Ariz. Feb. 11, 2009) (“just because the defaulted defendants each had received a cease and desist letter and were therefore aware of the existence of Plaintiff in Arizona, does not transform their acts into acts expressly aimed at Arizona”); see also *Walden v. Fiore*, 134 S. Ct. 1115 (2014) (“For a State to exercise jurisdiction consistent with due process,

France, Italy, Switzerland and England. Viewing so many different cities and cultures in a concentrated period of time...

Exhibit # 9

Will Seippel <will.seippel@worthpoint.com>
To: Jason Packer <jason.packer@worthpoint.com>

Thu, Mar 3, 2016 at 2:46 PM

Yes, please do.

From: Jason Packer [mailto:jason.packer@worthpoint.com]
Sent: Thursday, March 3, 2016 8:39 AM
To: Will Seippel <will.seippel@worthpoint.com>
Subject: Re: FW: Artist Annamarie Trombetta----Fraudulent Artwork--and links to Fraudulent Artwork

I can file a temporary removal request w/Google for this URL:
<http://www.worthpoint.com/worthopedia/titanic-lithograph-poster-48924121>
Which is the one that has her text in the old cached version w/Google:
http://webcache.googleusercontent.com/search?q=cache:7Xt_g7k26S8J:www.worthpoint.com/worthopedia/titanic-lithograph-poster-48924121+&cd=1&hl=en&ct=clnk&gl=us
Should I go ahead and do that? They don't always process those but there's no real danger to us other than losing traffic for just one page.

Will Seippel wrote:

I picked up on that and told her that in my response. Interestingly, I requested a return receipt from her and I am not getting one. Thus I do not know if she is even getting my responses.

From: Jason Packer [mailto:jason.packer@worthpoint.com]
Sent: Wednesday, March 2, 2016 6:15 PM
To: Will Seippel <will.seippel@worthpoint.com>
Subject: Re: FW: Artist Annamarie Trombetta----Fraudulent Artwork--and links to Fraudulent Artwork

I took down all the URLs that were specified earlier. It sounds like she is talking about items that are still cached in Google results, which we have no control over.

Will Seippel wrote:

Have we taken all of these down? I am not sure if they are the same ones as in the last group she sent.

EXHIBIT#

25. The Digital Millennium Copyright Act requires a designation of agents to receive notifications of claimed infringements under the Digital Millennium Copyright Act ("DMCA"). List, the names and address and years of all the designated WorthPoint Corporation employees, or attorneys from 2014 to 2019 that were or are responsible for responding to all infringement claims for the Digital Millennium Copyright Act ("DMCA").

RESPONSE: WorthPoint objects to this request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence, not reasonably limited in time, and has no bearing on the claims and defenses in this matter, and is a matter of public record not appropriate for discovery. Subject to and without waving the foregoing objections, WorthPoint refers plaintiff to the publicly-available DMCA Designated Agent Directory available on the copyright.gov website of the U.S. Copyright Office.

PLEASE TAKE FURTHER NOTICE, that the Defendant WorthPoint reserves the right to amend and supplement its responses during the pendency of this action.

Dated: April 8, 2022

Very Truly Yours,

Wilson Elser Moskowitz Edelman & Dicker LLP



Adam R. Bialek
150 E. 42nd Street
New York, NY 10017
(212) 490-3000 (phone)
(212) 490-3038 (facsimile)
Adam.Bialek@wilsonelser.com

Jana A. Slavina Farmer
1133 Westchester Ave



Annamarie Trombetta <atrombettaart@gmail.com>

Request for WorthPoint Corporation DMCA Designated Agent in 2015 & 2016

Annamarie Trombetta <atrombettaart@gmail.com>

Mon, May 2, 2022 at 10:52 AM

To: copyinfo@copyright.gov

To the US Copyright Office:

My Inquiry is Regarding the **2015 and 2016** Designated Registered DMCA Agent for the website WorthPoint Corporation ---website address
<https://www.worthpoint.com>

I have looked up online for the history of the Designated Registered DMCA Agent for the website WorthPoint Corporation and the information below states Arnold Lutzker.

Questions

--- What is the first year that the WorthPoint Corporation and website

<https://www.worthpoint.com> was copyrighted?

--- Who was the WorthPoint Corporation DMCA Designated Agent in the years 2015 and 2016. The website address is www.worthpoint.com ?? I have looked online and the date begins in 2017. Was there a Designated DMCA Registered Agent before the year 2017 ? Please forward the name of the 2015 and 2016 Designated DMCA Registered Agent ?

Sincerely,

Annamarie Trombetta

History | DMCA Designated Agent Directory | Contacted Firm: U.S. Copyright Office | Logged In | Back Review Requested: WorthPoint

DMCA Designated Agent Directory | Registration Account Login | Help

Service Provider History: Effective: January 8, 2021 to Present (Active)
 Effective: January 26, 2018 to January 13, 2021 (Inactive)
 Effective: December 20, 2017 to January 26, 2018 (Inactive)

Service Provider/Designated Agent Information		Alternate Names
Service Provider	WorthPoint Corporation 5 Commercial Drive Suite 200 Irvine, CA 92614	Search
Designated Agent	Arnold Lutzker 12000 E. 1st Avenue, #100 Tuck, TX Washington, DC 20006 Phone: 202-477-1600 Email: arnold@worthpoint.com	W.A.P.S. Bookings Worthpoint Worthpoint Agency Group Worthpoint App Worthpoint Corp Worthpoint Digital Services Worthpoint Studio Worthpoint Group Worthpoint Media
Status	Active	
Effective	December 20, 2017 to January 26, 2018	

Showing 1 to 1 of 1 items | Previous | Next

[Back to Search](#)

EXHIBIT #11C

**Interim Designation of Agent to Receive Notification
of Claimed Infringement**

Full Legal Name of Service Provider: WorthPoint Corp.

Alternative Name(s) of Service Provider (including all names under which the
service provider is doing business): N/A

Address of Service Provider: 3525 Piedmont Rd. Building 5, Suite 435
Atlanta, GA 30305

Name of Agent Designated to Receive
Notification of Claimed Infringement: Gregory Watkins


Full Address of Designated Agent to which Notification Should be Sent (a P.O. Box
or similar designation is not acceptable except where it is the only address that can be used in the geographic
location):

WorthPoint Corp. 3525 Piedmont Rd.
Building 5, Suite 435, Atlanta, GA 30305

Telephone Number of Designated Agent: 404.996.1474

Facsimile Number of Designated Agent: 877.588.3564

Email Address of Designated Agent: copyright@worthpoint.com

 ve of the Designating Service Provider:
Date: 8/15/13

Typed or Printed Name and Title: Gregory L. Watkins, Executive Editor
& Director of Content

Note: This Interim Designation Must be Accompanied by a Filing Fee*
Made Payable to the Register of Copyrights.

*Note: Current and adjusted fees are available on the Copyright website at
www.copyright.gov/docs/fees.html

Scanned

AUG 30 2013

Mail the form to:
Copyright I&R/Recordation
P.O. BOX 71537
Washington, DC 20024



Received

AUG 22 2013

Copyright Office

7022 1670 0002 1285 4799



CERTIFIED MAIL

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

Manhatten Lombardy
175 East 9th Street (12R)
New York, New York, 10128

DELIVERED
JAN 27 2023
10:37 AM EST

Gregory Watkins
2065 Ridge Gate Drive
Cumming, Georgia

3004130010-1N

RDC 99



30041



U.S. POSTAGE PAID
FCM LETTER
NEW YORK, NY
10013
JAN 27 23
AMOUNT
\$8.13
R2304E105090-06

-R-T-S- 300417010-1N 009 04/27/23

RETURN TO SENDER
UNABLE TO FORWARD
UNABLE TO FORWARD
RETURN TO SENDER

CUMMING GA 30041
ANNEX



EXHIBIT #13

A

Plaintiff's Evidence 000350

Peter Trippi

Editor-in-Chief

Fine Art Connoisseur Magazine

Streamline Publishing, Inc.

331 SE Mizner Boulevard

Boca Raton, FL 33432

peter.trippi@gmail.com

September 22, 2022

Dear Sir or Madam,

Since 2006, I have served as Editor-in-Chief of *Fine Art Connoisseur* magazine, the national magazine that serves collectors of representational painting, sculpture, drawings, and prints. We publish six issues per year and sell the magazine via subscription and in every Barnes & Noble store in the United States.

Annamarie Trombetta is a dedicated, highly regarded artist who maintains a working studio practice and has been covered editorially in *Fine Art Connoisseur*.

This letter is written in support of Annamarie, but at this time I must decline further involvement as a witness due to my extremely crowded schedule, which includes a great deal of travel domestically and abroad.

Best regards,

Peter Trippi

Peter Trippi

Expert
Witness
Withdrawn

Jana S. Farmer
Attorney at Law
Wilson Elser Moskowitz Edelman & Dicker LLP
1133 Westchester Avenue
White Plains, NY 10604
914.872.7247 (Direct)
914.552.9644 (Cell)
914.323.7000 (Main)
914.323.7001 (Fax)
jana.farmer@wilsonelser.com

From: Peter Trippi [mailto:petertrippi@gmail.com]
Sent: Friday, October 7, 2022 8:16 AM
To: Farmer, Jana S. <jana.farmer@wilsonelser.com>
Subject: Subpoena to testify at a deposition in a civil action (no. 18-cv-00993-RA-SLC)

[EXTERNAL EMAIL]

October 7, 2022

TO: Jana Slavina Farmer, jana.farmer@wilsonelser.com
FROM: Peter Trippi
RE: Subpoena to testify at a deposition in a civil action
(no. 18-cv-00993-RA-SLC)

I returned to New York City last night (October 6) to find this subpoena lying on the floor at my apartment door. The document directs me to participate in a Zoom deposition today (October 7) at 3:00 pm. I am headed out of New York this morning (for another business trip) and will actually be in transit at 3:00 pm today.

Therefore, the Zoom deposition needs to be rescheduled. Please suggest several alternative dates/times (far enough ahead so that I can prepare properly). I will respond as soon as possible; my travel schedule is very heavy this month.

Thank you.

WITHBRAW
Expert
WITNESS

EXHIBIT #13B

Oct 7, 2022

Plaintiff's Evidence 000495

EXHIBIT
14

Dominique Tremblay
7412 12th Ave
Brooklyn NY 11228



GREATER NEW YORK



Health Aid

Doctor's
836-7421

Emergency
680-4278

Office
236-8048